

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

<i>BRITTANY BARBEE</i>)	
)	
Plaintiff,)	
)	Case No. 6:19-cv-03370
)	
v.)	JURY TRIAL DEMANDED
)	
<i>UNITED PARCEL SERVICE, INC.,</i>)	
<i>and CORNELIUS NEWSOM</i>)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW defendants, United Parcel Service, Inc. and Cornelius Newsom, by and through their attorneys, Stanton | Barton LLC, and for their Notice of Removal pursuant to 28 U.S.C. § 1332 and Rule 81(c) of the Federal Rules of Civil Procedure, state as follows:

1. A civil action was commenced on or about July 24, 2019 in the Circuit Court of Oregon County, 37th Judicial Circuit, State of Missouri, by plaintiff Brittany Barbee against United Parcel Service, Inc. (hereinafter “UPS”) and Cornelius Newsom (hereinafter “Newsom”). The action was assigned cause number 19AM-CC00010. A copy of the Petition (as well as all process, pleadings, and orders served in this action) is attached hereto as Group Exhibit A.
2. Plaintiff’s Petition was served upon UPS on September 19, 2019. Counsel for Newsom have agreed to accept service on his behalf. (See, Exhibit A at Summons).
3. Plaintiff alleges that on or about June 10, 2019, she was involved in a motor vehicle accident with a UPS vehicle operated by Newsom. (See, Exhibit A at Petition, ¶ 3).

4. As described below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441 because it is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and it is between citizens of different states.

I. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1332 AND 1441.

A. The Amount-In-Controversy Requirement Is Met.

5. It is apparent from the face of the Petition and information known about plaintiff's claimed injuries that plaintiff seeks recovery of an amount in excess of \$75,000.

6. Plaintiff alleges that she was traveling eastbound on Business Highway 63 in Oregon County, Missouri, when her vehicle was struck by a 2016 Kenworth tractor trailer operated by Newsom. (*See, Exhibit A* at Petition, ¶ 6-8).

7. According to the police report, plaintiff may have been ejected from her vehicle as a result of the collision. (*See, Missouri Uniform Crash Report, attached hereto as Exhibit B*).

8. Emergency responders rendered medical treatment to plaintiff for her alleged injuries at the scene of the accident, and she was transported via air evacuation to Mercy Hospital in Springfield, Missouri. (*See, Exhibit B*).

9. Plaintiff alleges that as a result of the negligence of UPS and Newsom, she suffered injuries to multiple parts of her body, including her "head, ears, face, neck, shoulders, and back." (*See, Exhibit A* at Petition, ¶ 13).

10. Plaintiff further claims that her alleged injuries have caused her "pain and suffering in the past and in the future" and that she will "incur medical care and related costs in the past, presently and in the future." (*See, Exhibit A* at Petition, ¶ 13).

11. Plaintiff, who was 31 years old at the time of the accident, alleges that her injuries "have permanently interfered with [her ability] to work and to earn the income and livelihood

that [she] had a right to perform prior to the occurrence aforementioned without pain, limitations, and/or restrictions.” (See, Exhibit A at Petition, ¶ 18).

12. This Court has subject matter jurisdiction in a diversity case when a fact finder could legally conclude, from the pleadings and proof adduced to the court before trial, that the damages the plaintiff suffered are greater than \$75,000. *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002).

13. Based upon a fair reading of the extensive injuries and damages claimed in the Petition, including the medical expenses associated with her air evacuation and treatment, as well as the alleged permanent interference with her ability to work, the jurisdictional amount in controversy under 28 U.S.C. § 1446(b) has been met.

B. There Is Complete Diversity Of Citizenship.

14. Plaintiff is, and at the time of the filing of this action was, a resident and citizen of the State of Missouri. (See, Exhibit B).

15. UPS is, and at the time of filing of this action was, a corporation formed under the laws of the State of Ohio with its principal place of business in Georgia. Thus, for jurisdictional purposes, UPS is a citizen of both Ohio and Georgia. (See, Exhibit A at Summons; see also Secretary of State Registration, attached hereto as Exhibit C).

16. Newsom is, and at the time of filing of this action was, a resident and citizen of the State of Tennessee. (See, Exhibit A at Summons).

17. There are no other defendants and, as such, no defendant is alleged to be a resident of the State of Missouri. Therefore, there is complete diversity between the parties.

II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED.

18. Removal to this Court is sought pursuant to the provisions of 28 U.S.C. § 1441, and the time for filing this Notice of Removal as set forth in 28 U.S.C. § 1446 has not expired.

19. The United States District Court for the Western District of Missouri, Southern Division embraces the county in which the state court action is currently pending. Therefore, this action is properly removed to the Western District of Missouri, Southern Division pursuant to 28 U.S.C. §§ 93(c) and 1441(a).

20. Pursuant to 28 U.S.C. § 1446(d), UPS and Newsom are filing written notice of this removal and a copy of the Notice of Removal with the clerk of the state court in which this action is currently pending and will serve a copy of this notice on all parties to the removed action.

21. UPS and Newsom request trial by jury.

WHEREFORE, defendants United Parcel Service, Inc. and Cornelius Newsom pray that the above-captioned action now pending in the Circuit Court of Oregon County, 37th Judicial Circuit, State of Missouri, be removed to the United States District Court for the Western District of Missouri, Southern Division, and for all such other and further relief as this Court deems just and proper.

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and Cornelius Newsom*

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October, 2019, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all parties.

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/s/ Todd C. Stanton